

FILE NO. Revised Proposed Regulations and Circulars June 1, 1978

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

FILES

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FILE NO.

North Carolina



Department of Administration

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James B. Hunt, Jr., Governor
Joseph W. Grimsley, Secretary.

N.C. Commission of Indian Affairs
A. Bruce Jones, Executive Director

June 30, 1978

(22)

Director
Office of Indian Services
Bureau of Indian Affairs
18th and C streets, NW
Washington, DC 20245

Attention: Federal Recognition Project

Dear Sir or Ms.:

We are responding to your request for comments to the recently proposed BIA regulations on federal recognition of Indian tribes, as published in the Federal Register, volume 43, number 106, June 1, 1978.

We would like to begin by making some comments about the Supplementary Information section of the proposed regulations.

While the requirements of the petition, as listed in section 54.7, would seem to allow recognition of many Eastern, non-reservation Indians, it is the explanation in the "Supplementary Information" section that seems to put a restrictive interpretation on the requirements of section 54.7. The fourth paragraph of the "Supplementary Information" section appears to be most harmful to the recognition efforts of many non-Reservation Indians, especially those on the East Coast. The last sentence of that paragraph states that "... only those Indian tribes whose members and their ancestors existed in tribal relations since aboriginal times. . ." would be acknowledged under the regulations as proposed.

There are many East Coast non-reservation Indian people who, while maintaining personal identity and community tribal relations as Indian, have not maintained formal tribal structure throughout history. Many of these people have resumed their formal tribal structure in recent years.

Causes of this phenomenon are complex, but some of the contributing factors, have been:

- 1) earlier contact with European settlers, with resulting assimilation of European culture; East Coast Indians were exposed to Europeans up to 200 years earlier than were many Western Indians.
- 2) discrimination against Indians, who were often included with Blacks as "persons of color."

Since state governments in the East were established much earlier than those in the West, the East Coast Indians tended to establish relationships with the states instead of with the federal government. Western Indians often established relationships with the federal government before statehood was granted to their territories. State governments have recognized these people as Indian, even though formal tribal structures were not in operation. For years, several North Carolina counties had separate schools for Indians, Whites, and Blacks. The Indian schools were often established by state legislation.

There are Indian tribes in North Carolina which have had suppression of their Indian identify forced upon them. They maintained their Indian communities amongst themselves, while state and local governments made only two distinctions among races - white or colored. Their present internal procedures are not just an effort to reconstitute a defunct system but are instead an assertion of a right that was denied to them for so many years. These people are Indian and they should be recognized as such.

The non-federally recognized Indian groups of North Carolina: The Coharie, Haliwa, Lumbee, Person County, Tuscarora and the Waccamaw-Siouan, have maintained Indian tribal relations since aboriginal times. They have maintained relationships with state government. They have continued to maintain their Indian identity. Recently revised state legislation fully recognizes their Indian heritage dating back to aboriginal times.

Our specific comments are in relation to this perspective. The regulations as presently developed would place a hardship on the Eastern Indian groups. With a few changes, the regulations would allow bona fide Indian groups to qualify, and would protect eastern tribal groups, as well as exclude non-Indian groups attempting to get on the "bandwagon" under this legislation. Our comments will be listed by section.

54.1 (f) Indian tribe . The regulations should reflect the idea that a group which, for some reason, does not qualify for acknowledgment or funds under these regulations should not lose altogether its identify as an Indian tribe.

54.1 (i), (j) Member of Indian group
Member of Indian tribe

These sections need to reflect the aforementioned concern.

54.7 (a) The words "and continously" need to be stricken. Eastern groups have more than 200 years of history behind them, with various changes in governmental structure and law. They should not be penalized for this fact of Eastern United States life. The groups have been repeatedly and consistently identified as Indian. This should be sufficient without a test of continuousness.

54.7 (b) Many Western groups do not now inhabit their aboriginal lands, for example: the NezPerce, and tribes in Oklahoma. Some Eastern groups have also been forced to move. A definition of community needs to be added. The test should be one of local knowledge and reputation, rather than one of contiguousness or borders. Since many Eastern groups were never reserved, their communities (although distinct) are formed differently from those of Western tribes.

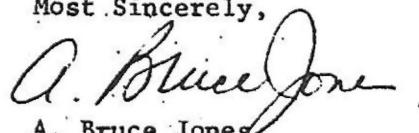
54.7 (c) A majority of the Eastern groups are descendants of tribes which remained East after the Europeans forced many Indian groups West. They were not allowed to practice formal tribal government. They were required to submit to state governmental authorities. The tribal authority was maintained to the present, but in a way distinct from the Western groups. The regulation should reflect this difference in culture.

Further, we hope that the entire regulation and petition process will be re-evaluated into a two tier process. First, your office would recognize all bona fide Indian groups on the basis of criteria designed to recognize the cultural differences between reserved, non-reserved, Eastern and Western groups. After all the Indian people were recognized, section 54.11 would set up a procedure whereby each group would prove its needs for support. Funding would not be an automatic result. Rather, Indian money would go to the areas of greatest need. This approach would stop quarrels over Indian heritage in part motivated by a fear of loss of needed funding.

This is not the time for a bitter struggle over Indian identification. We need to quickly recognize those groups which have been suffering and rejoicing as Indians for years. And then, united as Indians, we need to work to find resources to meet the needs of our nationwide Indian community.

If you have any questions or if we may be of further service to you, please do not hesitate to contact us.

Most Sincerely,



A. Bruce Jones
Executive Director

ABJ:slj